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DEPARTMENT OF ENVIRONMENTAL PROTECTION

SITE REMEDIATION AND WASTE MANAGEMENT PROGRAM

ENVIRONMENTAL REGULATION

NEW JERSEY POLLUTANT DISCHARGE ELIMINATION SYSTEM

Proposed amendments: N.J.A.C. 7:14A-2.5, 7.5, 8.5, 10.2 and 10.17.

TECHNICAL REQUIREMENTS FOR SITE REMEDIATION

Proposed amendments: N.J.A.C. 7:26E-3.1, 3.9, 4.4, 6.3, 8.5 and Appendix E.

Proposed new rule: N.J.A.C. 7:26E-Appendix H

Authorized by: Bradley M. Campbell, Commissioner

Department of Environmental Protection

Authority: N.J.S.A. 13:1D et seq., 13:1E et seq., 131K-6 et seq., 58:10-23.11a et seq., 58:10A-1 et seq., 58:10A-21 et seq., 58:10B-1 et seq.

DEP Docket Number: 02-05-01/403

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Submit written comments by April 7, 2005 to:

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Attn.: DEP Docket No. 02-05-01/403

Office of Legal Affairs

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The Department of Environmental Protection (Department) requests that commenters submit comments on disk or CD as well as on paper. Submittal of a CD or disk is not a requirement. The Department prefers Microsoft Word 6.0 or above. Macintosh formats should not be used. Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment.

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This rule proposal can be viewed or downloaded from the Department's web site at <http://www.state.nj.us/dep>.

The agency proposal follows:

Summary

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Technical Requirements for Site Remediation Rules, N.J.A.C. 7:26E, constitute the minimum technical requirements for investigation and remediation of contaminated sites. These rules govern the remediation of any contaminated site in New Jersey including the Department's oversight of ground water remediation. Remedial Action Workplans, progress reports and similar documents are reviewed by the Department for conformity with these rules. The remediation of ground water at some contaminated sites can include discharges to ground water, which currently require individual New Jersey Pollutant Discharge Elimination System (NJPDES) discharge to ground water (DGW) permits pursuant to N.J.A.C. 7:14A. The Department has determined that the requirement for individual NJPDES DGW permits for sites that are under the oversight of the Department's Site Remediation and Waste Management Program adds a time-consuming step to the remediation process without enhancing environmental protection.

The Department, therefore, proposes amendments to the NJPDES rules, N.J.A.C. 7:14A, and the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, to streamline the oversight of such groundwater cleanups. The proposed amendments to the NJPDES rules expand the scope of the permit-by-rule provisions for non-hazardous-waste DGWs conducted as part of a ground water remediation under the oversight of the Department's Site Remediation and Waste Management Program and includes two new NJPDES permit exemptions for Hazardous Waste Facilities. The proposed amendments to the Technical Requirements establish new technical and administrative requirements for the permit-by-rule provisions in the NJPDES rules.

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New Jersey Pollutant Discharge Elimination System Rules, N.J.A.C. 7:14A

NJPDES Permit Exemptions

The Department proposes to amend N.J.A.C. 7:14A-2.5(a) and 10.2(b) to exempt discharges to ground water at certain facilities from the requirement to obtain a NJPDES DGW permit from the Department.

In New Jersey, a hazardous waste land disposal facility or unit (e.g., surface impoundment, landfill, or land treatment unit) must obtain a NJPDES permit issued under the Hazardous Waste Rules, N.J.A.C. 7:26G, and the NJPDES rules, N.J.A.C. 7:14A. The Hazardous Waste Rules at N.J.A.C. 7:26G-8 and 9 incorporate by reference federal RCRA requirements for hazardous waste land disposal units, including the RCRA rules regarding ground water monitoring and corrective action at 40 C.F.R. 264.91-100 and 40 C.F.R. 265.91-94. However, the Ground Water Monitoring Requirements for Hazardous Waste Facilities provisions in the NJPDES rules at N.J.A.C. 7:14A-10 set forth ground water and corrective action requirements for hazardous waste facilities that are equivalent to those found in the RCRA rules at 40 C.F.R. 264.91-100 and 40 C.F.R. 265.91-94. The reason for the duplication in the regulatory requirements is that, at the time the U.S. Environmental Protection Agency (EPA) authorized New Jersey for the base RCRA program in 1985, these ground water related requirements were not included in the State's Hazardous Waste Rules.

Under New Jersey's hazardous waste program, when a hazardous waste land disposal facility (LDF) closes a disposal unit with waste in place, or such units have caused soil and/or ground water contamination that is not removed during closure, the facility must obtain a NJPDES DGW permit that is the equivalent of a RCRA post closure permit. See N.J.A.C. 7:26G-12 which incorporates by reference 40 C.F.R.270.1(c). Most of the land disposal facilities (LDFs) were issued NJPDES DGW permits but not all those DGW permits were equivalent to a RCRA post closure permit. A NJPDES DGW permit for LDF post closure contains provisions

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that require long-term monitoring of the unit as well as any applicable maintenance or remediation (i.e., corrective action) required by both the Hazardous Waste and NJPDES rules. See N.J.A.C. 7:26G-8, 9, and 12. For hazardous waste landfills, a separate document is concurrently issued by the hazardous waste program, which approves or modifies the engineering provisions of landfill closure and post closure plans, pursuant to N.J.A.C. 7:26G-8 and 9.

The Department proposes to amend the NJPDES rules to add an exemption at N.J.A.C. 7:14A-2.5(a)9 for a discharge to ground water at a hazardous waste facility that is subject to a Hazardous Waste Facility permit issued pursuant to the New Jersey Hazardous Waste Rules, in situations where that permit includes the applicable ground water monitoring and remediation conditions. This will streamline permitting of hazardous waste facilities that do not need a NJPDES DGW permit for other non-hazardous waste discharges because only one permit application would be required and only one permit would be issued.

The Department proposes to add an exemption at N.J.A.C. 7:14A-2.5(a)10 for discharges to ground water at a hazardous waste facility that is undergoing closure and/or post-closure care under the terms of an “enforceable document.” The terms “closure” and “post-closure” in this paragraph will have the meaning set forth at 40 C.F.R. 264 and 265, and the term “enforceable document” will have the meaning set forth at 40 C.F.R. 270.1(c)7. The requirements of 40 C.F.R. 264 and 265 are incorporated by reference in the New Jersey Hazardous Waste Rules at N.J.A.C. 7:26G-8.1 and 9.1, and 40 C.F.R. 270.1(c)7 is incorporated by reference at N.J.A.C. 7:26G-12.1.

The proposed permit exemption at N.J.A.C. 7:14A-2.5(a)10 makes the Department’s closure and post-closure permit requirements equivalent to the federal RCRA rules for post-closure permits for hazardous waste management facilities at 40 C.F.R. 270.1(c). This proposed amendment will ensure that the Department has the regulatory flexibility to use alternate mechanisms, under a variety of authorities, to address the post-closure requirements based on the particular need of the facility because all documents issued pursuant to the Department’s

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Oversight of the Remediation of Contaminated Sites rules, N.J.A.C. 7:26C, except memorandums of agreement, will meet the criteria for “enforceable documents” set forth in the RCRA rules at 40 C.F.R. 271.16(e).

The New Jersey Hazardous Waste Rules at N.J.A.C. 7:26G-9 incorporate by reference the public notice requirements of 40 C.F.R. 265.121. The public notice requirements of 40 C.F.R. 265.121 will replace those required by the NJPDES rules under the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., where an enforceable document is used to regulate closure or post-closure activities in lieu of an NJPDES permit pursuant to the proposed exemption at N.J.A.C. 7:14A-2.5(a)10.

The Department proposes to amend the applicability section of the NJPDES subchapter governing ground water monitoring requirements for hazardous waste facilities at N.J.A.C. 7:14A-10.2(b) to clarify that all hazardous waste facilities as defined by N.J.A.C. 7:26G-8 and 9 (see N.J.A.C. 7:14A-10.2(a)1), must obtain a NJPDES-DGW permit to conduct ground water monitoring and corrective action, unless specifically exempted by N.J.A.C. 7:14A-2.5(a)9 or 10. The inclusion of corrective actions in this subsection reflects that existing N.J.A.C. 7:14A-10.14 applies to and prescribes requirements for NJPDES-DGW permits for corrective action programs undertaken at hazardous waste facilities.

Expanding the scope of permit-by-rule provisions

The Department proposes amendments to N.J.A.C. 7:14A-7.5, “Authorization of discharges to ground water by permit-by-rule,” and N.J.A.C. 7:14A-8.5, “Authorization of injection into Class V wells by permit-by-rule” that broaden the scope of the permit-by-rule provisions and establish the requirements for the discharges authorized by a permit-by-rule.

The permit-by-rule provision at N.J.A.C. 7:14A-7.5(a)4 include discharges to ground water from the development and sampling of monitoring wells done in accordance with a NJPDES permit. The Department proposes to add discharges associated with the installation of monitoring wells and also to provide that this permit-by-rule can be used for these types of

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discharges if the monitoring well activities are done in accordance with the Technical Requirements for Site Remediation. The latter amendment includes a specific reference to N.J.A.C. 7:26E-3.7(c)2, which requires use of methods acceptable to the Department, and 6.4(d)3, which includes requirements for on-site soil reuse. Methods that are acceptable to the Department that include criteria applicable to these discharges are specified in the NJDEP Field Sampling Procedures Manual in the Quality Assurance Chapter's section on decontamination procedures. Other applicable requirements in these regulations include, but are not limited to, N.J.A.C. 7:26E-1.13(b)2i, iv. and vi. This amendment will ensure that the discharges from monitoring wells are handled in a manner that is protective of human health and the environment.

For clarification, the Department proposes to amend N.J.A.C. 7:14A-7.5(a)5 to delete reference to remediating a site under the Oversight rules. The discharges from wells for aquifer testing covered by N.J.A.C. 7:14A-7.5(a)5 do not require prior Department written approval. The discharges from wells for aquifer testing done as part of a site remediation are covered by N.J.A.C. 7:14A-7.5(b)3iii. The latter do require Department review and written approval.

The Department proposes to clarify and expand the types of discharges to ground water conducted under the permit-by-rule at N.J.A.C. 7:14A-7.5(b) that must first be approved by the Department in writing to ensure that the discharge does not cause a violation of the Ground Water Quality Standards, N.J.A.C. 7:9-6.

The Department proposes to increase the duration of the discharges described in N.J.A.C. 7:14A-7.5(b)3i and iv from 90 to 180 days. This extended time frame is needed because discharges from pilot and design studies often require more than 90 days to complete. The Department also proposes to amend N.J.A.C. 7:14A-7.5(b)3iv for clarity and to use terminology consistent with terminology used in the Technical Regulations. The proposed amendments also make clear that the discharges associated with monitoring that are covered by this subparagraph are those associated with engineering, design, or remedial action selection studies. Other discharges associated with monitoring are covered by the proposed new N.J.A.C. 7:14A-7.5(a)4.

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Proposed new N.J.A.C. 7:14A-7.5(b)3vi includes under a permit-by-rule the discharges resulting from dewatering activities at a contaminated site or at a regulated underground storage tank facility. Excavation for activities unrelated to remediation, such as general construction or the installation of an under ground storage tank, can require dewatering of contaminated ground water. These discharges are relatively small in volume and short in duration for which a short term permit-by-rule would be appropriate. Proposed new N.J.A.C. 7:14A-7.5(b)3vii includes all other non-hazardous waste discharges that occur during the course of a site remediation, provided that the discharge occurs during the course of a site remediation conducted under the oversight of the Department's Site Remediation Program, and that the person conducting the remediation complies with the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

The addition of the discharges covered under N.J.A.C. 7:14A-7.5(b)3vii will eliminate the significant duplication of effort and administrative work that occurs when the Department issues individual NJPDES DGW permits to regulate discharges to ground water at sites already under the oversight of the Department's Site Remediation and Waste Management Program. For example, a large amount of the information required to be submitted on a NJPDES permit application is already in the possession of a site remediation case manager prior to an applicant's preparation and submittal of the permit application. Under the proposed amendments to the Technical Rules at N.J.A.C. 7:26E-6.3(c) discussed below, the technical and administrative information required to be included in an individual DGW permit application will be required to be submitted to the Department in a remedial action workplan.

The Department proposes amendments to N.J.A.C. 7:14A-8.5, "Injection into Class V wells by permit-by-rule," to be consistent with the above-discussed amendments to N.J.A.C. 7:14A-7.5, which clarify and expand the types of discharges to ground water that the Department regulates by the permit-by-rule provisions. The Department proposes to delete all of the site remediation-related provisions of N.J.A.C. 7:14A-8.5(a). N.J.A.C. 7:14A-8.5(a) will continue to cover under a permit-by-rule any owner or operator of a Class V underground injection well who has submitted inventory information to the Department prior to May 5, 1997. Instead of

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modifying the site remediation related provisions of existing N.J.A.C. 7:14A-8.5(a) to make them consistent with the proposed amendments at N.J.A.C. 7:14A-7.5, discussed above, a new N.J.A.C. 7:14A-8.5(b)11-15 is proposed, which cross-references the provisions of N.J.A.C. 7:14A-7.5(b), to ensure that the requirements for the permit-by-rule provisions under N.J.A.C. 7:14A-8.5 are consistent with the requirements for the permit-by-rule provisions of N.J.A.C. 7:14A-7.5.

Criteria for well abandonment

The Department proposes to modify N.J.A.C. 7:14A-8.10(a)5 to correct an inconsistency between the Federal rule at 40 C.F.R. 144.52(a)5 and existing N.J.A.C. 7:14A-8.10(a)5. In order for this rule to be as stringent as the Federal rule, this rule must require a well to be considered abandoned after 2 years of ceased operations instead of after 3 years as is currently required. Accordingly, proposed N.J.A.C. 7:14A-8.10(a)5 provides that cessation of injection operations for a period of two years or more would constitute abandonment.

Activities for which a treatment works approval is not required

The Department proposes to amend N.J.A.C. 7:14A-22.4 to exempt a discharge that is an authorized permit-by-rule discharge conducted in accordance with N.J.A.C. 7:14A-7.5 from the requirement to obtain a treatment works approval.

Technical Requirements for Site Remediation, N.J.A.C. 7:26E

The Department is proposing amendments to the Technical Requirements for Site Remediation at N.J.A.C. 7:26E-6.3(c) to provide the substantive and administrative requirements applicable to the discharges that will be authorized under the permit-by-rule provisions at proposed N.J.A.C. 7:14A-7.5(b)3vii. Proposed N.J.A.C. 7:26E-6.3(c) sets forth the information requirements for the person responsible for conducting a remediation who seeks permit-by-rule authorization pursuant to N.J.A.C. 7:14A-7.5(b)3vii. The N.J.A.C. 7:26E-6.3(c) requirements parallel and substitute for the requirements that would have applied under the NJPDES-DGW permits issued under current rules. Technical information, such as the nature, location and

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duration of the discharge, will be required to be submitted to the Department with the remedial action workplan.

Proposed N.J.A.C. 7:26E-6.3(c) also establishes the public notice requirements for persons seeking authorization under a permit-by-rule pursuant to N.J.A.C. 7:14A-7.5(b)3vii. Proposed N.J.A.C. 7:26E-6.3(c)2 through 7 require the person seeking the permit-by-rule to publish a public notice of a proposed discharge in a local daily or weekly newspaper of general circulation, and to provide copies of the remedial action workplan to the local authorities for each municipality where the contaminated site is located. The public notice invites public comments regarding the discharge to be submitted to the Department. These notice requirements are consistent with the public notice requirements of the Water Pollution Control Act, N.J.S.A. 58:10A-1 *et seq.*, and the NJPDES regulations at N.J.A.C. 7:14A-15, which would otherwise apply to these discharges to ground water.

Proposed N.J.A.C. 7:26E-6.3(c)8 requires that the person who has authorization under a permit by rule comply with the record-keeping requirements of the NJPDES rules set forth at N.J.A.C. 7:14A-6.6. Information includes, as applicable, all records of calibration and maintenance of monitoring equipment and monitoring information including the date place and time of sampling or measurements, who performed the monitoring, the date of and who performed analyses, the analytical techniques used and the results of such analyses. The person who has authorization under a permit-by-rule must maintain these records for a period of at least five years.

In conjunction with the requirement for public notice, the Department is proposing a model public notice at new Appendix H to N.J.A.C. 7:26E. The person responsible for conducting the remediation would be required to complete the notice to provide a brief description of the proposed discharge and publish the notice in appropriate local newspapers. Each notice invites interested persons to submit comments to the Department within 30 days of publication of the notice. The Department will consider comments that relate to the requirements of the proposed discharge that are received by the close of the public comment

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period. After the close of the public comment period, the Department will approve or modify the proposed discharge. The Department will respond to all significant and timely comments with its decision to approve or deny the approval of the use of the permit-by-rule. If authorization under the permit-by-rule is denied the applicant can apply for an individual NJPDES-DGW permit. Each person who has submitted written comments will receive notice of the Department's decision to approve or deny the permit-by-rule authorization.

Corrections

The Department proposes to correct a typographical error at N.J.A.C. 7:26E-3.1(c), and to correct cross-references at 3.9(a) and (b), 4.4(h), and 8.5(b). In addition, the Department proposes to amend sections 7A and 7B of the existing model deed notice in Appendix E to make the deed notice consistent with N.J.A.C. 7:26E-8.4(c)1. The Department requires that biennial certifications be submitted every two years from the date the deed notice is recorded (N.J.A.C. 7:26E-8.4(c)1). The existing model deed notice erroneously states that biennial certifications are required, beginning two years after the date the Department has issued a no further action letter for the first soil remedial action that included a deed notice. The inconsistency between the rule text and the model deed notice has caused confusion within the regulated community.

The Department believes that it is important that monitoring and biennial certification of a deed noticed remedy begin after the installation of the institutional control, which is marked by the filing of the notice with the local municipality. Particularly with complex site remediations, the completion of the remediation and the issuance of a no further action letter can take many years. The remediation of areas for which an engineering or institutional control is needed must be monitored and maintained from the date that it is installed to ensure the continued protectiveness of the remedy. This amendment will provide clarity to the timing of the Department's biennial monitoring requirements.

Social Impact

The proposed amendments to the NJPDES rules and the Technical Requirements for Site Remediation are expected to result in a positive social impact. The proposed changes to the

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permit-by-rule provisions at N.J.A.C. 7:14A-7.5 and 8.5 broaden the types of discharges that can be authorized under the existing permit-by-rule provisions of N.J.A.C. 7:14A-7.5 and N.J.A.C. 7:14A-8.5. For these types of discharges, the Department believes that approval under the permit-by-rule is equally protective of human health and the environment at sites under the oversight of the Department's Site Remediation and Waste Management Program.

The proposed permit-by-rule process will be more efficient than the process of applying for an individual NJPDES DGW permit for those sites under the oversight of the Site Remediation Waste Management Program. The permit-by-rule process will likely reduce administrative costs and time expenditures for the Department and the regulated community, which, in turn, could expedite site remediation work. The exemptions set forth at proposed N.J.A.C. 7:14A-2.5(a)9 and 10 should also streamline the permitting of discharges at operating hazardous waste facilities. Proposed N.J.A.C. 7:14A-2.5(a)9 should streamline the permitting process for those discharges by eliminating the need for individual NJPDES-DGW permits in situations where the hazardous waste facility permit includes conditions for the discharge that are equivalent with those of the NJPDES ground water monitor requirements for hazardous waste facilities at N.J.A.C. 7:14A-10. Proposed N.J.A.C. 7:14A-2.5(a)10 will streamline the permitting process for discharges at hazardous waste facilities by authorizing the implementation of the closure and post closure requirements at those facilities through the use of an enforceable document in lieu of a NJPDES DGW permit. As such, the rules will have a positive social impact.

Economic Impact

The proposed amendments to the NJPDES rules and the Technical Requirements for Site Remediation are expected to have a positive economic impact. The changes broaden the types of discharges allowed to proceed through the permit-by-rule process, which is a more efficient, less costly process than applying for an individual NJPDES DGW permit. Therefore, more frequent use of the permit-by-rule authority should reduce administrative time and monetary expenditures for both the Department and the regulated community. Further cost savings may result if, as expected, the increased efficiency of the permitting process expedites the initiation of site

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remediation work, since the costs and duration of the cleanup of subsurface pollution problems are often less if cleanup is initiated soon after the discharges occur. The proposed amendments to the NJPDES rules to add new permit exemptions at N.J.A.C. 7:14A-2.5(a)9 and 10 that will eliminate the need for, or reduce redundancies in, the permitting of hazardous waste facilities and could result in cost savings for a relatively small number of facilities.

Environmental Impact

The proposed changes to the NJPDES rules and the Technical Requirements for Site Remediation will have a positive environmental impact. The proposed permits-by-rule will be as protective of human health and the environment as the process of applying for an individual NJPDES DGW permit for sites under the oversight of the Department's Site Remediation Waste Management Program. The criteria that apply to the individual NJPDES DGW permit process also will apply to the permit-by-rule process, and the same level of Departmental technical review will be carried out; only the administrative requirements will be reduced. Monitoring of the discharge will be required, and the Site Remediation and Waste Management Program oversight document will ensure that adequate controls are in place to monitor and evaluate the remediation work. The increased efficiency of the permits-by-rule will have a positive environmental effect by expediting cleanups and will free up Departmental and private sector resources to perform additional site remediation work.

Federal Standards Analysis

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c.65) require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis.

The proposed amendments to N.J.A.C. 7:14A-2.5(a)9 will allow the Department to regulate hazardous waste land disposal facilities in a manner that is consistent with the Federal RCRA program. For hazardous waste land disposal units, the Department will have the option of issuing one hazardous waste facility permit, under N.J.A.C. 7:26G, instead of both that permit and a NJPDES DGW permit. The hazardous waste facility permit will be equivalent to a

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hazardous waste facility permit issued pursuant to the federal RCRA rules because the Department's Hazardous Waste Rules at N.J.A.C. 7:26G-8, 9, and 12 incorporate by reference the federal RCRA regulations. As such, a hazardous waste facility permit issued for a hazardous waste land disposal facility under the Hazardous Waste Rules will not impose any standards on the permittee in excess of federal standards. Accordingly, proposed N.J.A.C. 7:14A-2.5(a)9 will not exceed any federal standards.

The proposed exemption at N.J.A.C. 7:14A-2.5(a)10 from the requirement of a NJPDES DGW permit for discharges to ground water at a hazardous waste facility that is undergoing closure and/or post-closure care under the terms of an "enforceable document" will make the Department's closure and post-closure requirements equivalent to the federal RCRA rules for closure and post-closure permits for hazardous waste management facilities.

The Department is proposing to provide permit-by-rule provisions for non-hazardous discharges to ground water at N.J.A.C. 7:14A-7.5 and include public notice and comment requirements in the Technical Requirements for Site Remediation at N.J.A.C. 7:26E-6.3(c). There is no equivalent federal program or requirements for non-hazardous waste discharges to ground water, except for the Underground Injection Control program, which is discussed below.

The permit-by-rule authorization at N.J.A.C. 7:14A-8.5 is for Class V injection wells and is consistent with the federal Underground Injection Control standards. Specifically, the rule amendments maintain consistency with 40 C.F.R. 144.83 and 40 C.F.R. 144.84, which provide the federal authorization-by-rule requirements for Class V injection wells. In addition, the Department is proposing to include public notice and comment requirements in the Technical Requirements for Site Remediation that are consistent with the Federal public notice requirements at 40 C.F.R. 124.10. The proposed rule amendments do not exceed any Federal standards or requirements.

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In sum, the proposed amendments to the NJPDES rules and the Technical Requirements for Site Remediation do not exceed any Federal standards or requirements and as such, no further Federal Standards Analysis is required.

Jobs Impact

The proposed amendments to the NJPDES rules and the Technical Requirements for Site Remediation will have minimal impact on jobs in New Jersey. Environmental consultants and engineers will continue to be required to provide the Department with essential technical environmental information regarding discharges to ground water. However, some time will be saved for both the Department and applicants due to reduced administrative permit application and processing requirements.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry. The remediation of contaminated sites that involve discharges to ground water are generally not associated with agriculture. The Department currently has no active individual NJPDES DGW permits associated with agricultural sites which will be affected by these proposed amendments and does not anticipate such applications in the future.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. the Department has determined that the readoption of these rules with amendments will affect small businesses. The Technical Rules are designed to assist all businesses, including small businesses, through the process of site investigation and remedial action in as efficient a manner as possible.

The requirements proposed in these amendments represent the minimum requirements for a person to obtain a permit by rule for a discharge to ground water that occurs as part of the remediation of any contaminated site. All sites, regardless of the size of the business conducting the remediation, must be remediated to levels that are protective of public health, safety and the

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environment. The extent and severity of the pollution caused by a discharge is independent of the size of the business present, therefore these rules cannot establish separate requirements for small businesses. Based upon the conditions at a site, a small business may be required to remediate contaminated ground water pursuant to these rules and comply with specific reporting requirements. The reporting requirements include the remedial action workplan that would include technical information about the discharge to ground water and documents related to the public notice requirements. The capital costs of implementing these rules will vary depending on the physical setting of the site, and the complexity of site conditions. For example, the cost of a ground water remediation that includes a discharge to ground water can range from \$5,000 to \$1 million or more depending upon the site conditions.

However, the regulations have been organized to be as clear and simple as possible so that the approval process for discharges to ground water is streamlined. The rule has been designed to be as simple as possible so that everyone, including small businesses, can remediate contaminated sites in a timely and efficient manner.

Smart Growth Impact

Executive Order No. 4 (2002) requires State agencies that adopt, amend or repeal any rule adopted pursuant to Section 4(a) of the Administrative Procedure Act (N.J.S.A. 52:14B-4(a)), to describe the impact of the proposed rule on the achievement of smart growth and implementation of New Jersey State Development and Redevelopment Plan (State Plan). The Department has evaluated this rulemaking to determine the nature and extent of the impact of the rules proposed for readoption and amendments on smart growth and implementation of the State Plan. The Governor's order on Smart Growth calls for conservation of New Jersey's natural resources, revitalization of its urban centers, and protection of the quality of the State's environment, while promoting beneficial economic growth, development and renewal. The proposed amendments support the principles of smart growth by encouraging the cost-efficient and timely cleanups of contaminated sites, many of which are brownfield sites that are then returned to beneficial use. Remediating contaminated sites improves the quality of the State's

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natural resources while promoting revitalization of urban areas. The goal of New Jersey's State Plan are very similar to the Governor's Smart Growth initiative. They include conserving New Jersey's natural resources, revitalizing its Urban Centers and protecting the quality of its environment. Thus, ensuring remediation of contaminated sites through compliance with the proposed readoption with amendments of N.J.A.C. 7:26C also supports the goals of the State Plan.

Full text of the proposed amendments and new rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 14A

NEW JERSEY POLLUTANT DISCHARGE ELIMINATION SYSTEM

SUBCHAPTER 2. GENERAL PROGRAM REQUIREMENTS

7:14A-2.5 Exemptions

(a) The following activities are exempt from the requirements to obtain a NJPDES permit from the Department:

1. - 6. (No change.)

7. Indirect users which meet the SIU definition in N.J.A.C. 7:14A-1.2 and discharge to a delegated local agency. IPP permits issued by delegated local agencies to indirect users under this chapter are NJPDES permits. An exemption under this section does not limit the authority of a delegated local agency to require a IPP permit; [and]

8. Discharges into a privately owned treatment works, except as the Department may otherwise require on a case-by-case basis. In such a case, the Department shall specify in the statement of basis or fact sheet prepared in accordance with N.J.A.C. 7:14A-15.7 and 15.8 the reason for requiring the user to apply for a permit. Such dischargers shall comply with N.J.A.C. 7:14A-4[.];

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9. Discharges to ground water at a facility for which a Hazardous Waste Facility permit is issued under the Department's Hazardous Waste Rules at N.J.A.C. 7:26G-12, where that permit includes ground water monitoring and remediation conditions as applicable; and

10. Discharges to ground water at a hazardous waste facility, as defined by N.J.A.C. 7:26G-8 and 9, that is undergoing closure and/or post-closure care under the terms of an enforceable document. For the purposes of this paragraph, the terms "closure" and "post-closure" have the meanings set forth at 40 C.F.R. 264 and 265, as incorporated by reference at N.J.A.C. 7:26G-8.1 and 9.1, respectively, and the term "enforceable document" has the meaning set forth at 40 C.F.R. 270.1(c)7, as incorporated by reference at N.J.A.C. 7:26G-12.1.

(b) - (d) (No change.)

SUBCHAPTER 7. REQUIREMENTS FOR DISCHARGES TO GROUND WATER

7:14A-7.5 Authorization of discharges to ground water by permit-by-rule

(a) Any person responsible for any of the following discharges to ground water is deemed to have a permit-by-rule:

1. – 3. (No change.)

4. Discharges to ground water from activities associated with the **installation,** development and sampling of monitoring wells in accordance with a NJPDES permit **or,** **for activities not included in a NJPDES permit, in accordance with the Technical Requirements for Site Remediation, including but not limited to, the requirements of N.J.A.C. 7:26E-3.7(c)2 and 6.4(d)3;** and

5. [Except when the Department is remediating a contaminated site as defined in N.J.A.C. 7:26C-1.3, discharges to ground water, from wells which test aquifers, not to

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exceed 30 calendar days, for the purposes of obtaining hydrogeologic data.] **Discharges to ground water from wells, other than discharges that occur during the course of a remediation pursuant to (b)3 below, that occur during aquifer tests for the purpose of obtaining hydrogeologic data, provided that such discharges do not exceed 30 calendar days in duration.**

(b) Any person responsible for **the** discharges to ground water listed in (b)3i through **vii** below is deemed to have a permit-by-rule if the discharge occurs when:

1. [The Department is remediating] **A** contaminated site as defined in N.J.A.C. 7:26C-1.3, **is being remediated** pursuant to the rules at N.J.A.C. 7:14B implementing the Underground Storage of Hazardous Substances Act (N.J.S.A. 13:1K-6 et seq.), the requirements of the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq.), [or when the owner or operator of a contaminated site is conducting remediation under Department oversight, or] the requirements of the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11), or the Procedures for Department Oversight of the Remediation of Contaminated Sites at N.J.A.C. 7:26C; and

2. The person is in receipt of written approval of the discharge from the Department;

3. The following ground water discharges are authorized by a permit-by-rule under this subsection:

i. Discharges to ground water, not to exceed [90] **180** calendar days, from pilot treatment plants to obtain engineering design data;

ii. Discharges **to ground water** related to biotreatability studies where the discharge will not exceed 180 calendar days [from the first date of discharge];

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iii. Discharges to ground water, not to exceed 30 calendar days, from wells to test aquifers for the purpose of obtaining engineering and hydrogeologic design data;

iv. Discharges to ground water, not to exceed [90] **180** calendar days, from any other facility or equipment associated with [monitoring,] engineering **studies,** remedial **action selection** [alternatives activities], or design studies **and associated monitoring;** [necessary to evaluate a contaminated site; and]

v. Discharges to ground water to remediate contamination from discharges of heating oil as defined at N.J.A.C. 7:14A-1.2, at a residential building of four units or less; [and]

vi. Discharges to ground water, not to exceed 180 calendar days, related to dewatering at a contaminated site or regulated underground storage tank facility; and

vii. Discharges to ground water, other than those listed in (b)3i through vi above, that occur during the course of a site remediation that is being conducted in accordance with the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, including the requirements of N.J.A.C. 7:26E-6.1 and 6.3(c).

(c) (No change.)

SUBCHAPTER 8. ADDITIONAL REQUIREMENTS FOR UNDERGROUND INJECTION CONTROL (UIC) PROGRAM

7:14A-8.5 Authorization of injection into Class V wells by permit-by-rule

(a) [An owner or operator of any of the Class V injection wells described at (a)1 or 2 below shall be deemed to have a permit-by-rule for such injection wells provided such person

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submits the inventory information required pursuant to (c) below and thereafter receives written approval for such injection well from the Department. Such approval shall include any limitations necessary to ensure compliance with applicable ground water quality, surface water quality or cleanup requirements.] **Any owner or operator of a Class V underground injection well who has submitted the inventory information, pursuant to (c) below, prior to May 5, 1997 shall be deemed to have a permit-by-rule.**

[1. When the Department is remediating a contaminated site as defined in the Underground Storage Tanks rules at N.J.A.C. 7:26C-1.3, or an owner or operator of a contaminated site is conducting remediation under Department oversight pursuant to the rules at N.J.A.C. 7:14B, the requirements of the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq., as amended), the requirements of the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11), or the Procedures for Department Oversight of the Remediation of Contaminated Sites at N.J.A.C. 7:26C and is in receipt of a written approval from the Department pursuant to this subsection, the following underground injection activities are authorized by permit-by rule:

- i. Underground injection discharges from pilot treatment plants for the purpose of obtaining engineering design data where the discharge shall not last more than 90 days from the first date of discharge;
- ii. Underground injection discharges from wells to test aquifers for the purpose of obtaining engineering design data where the discharge shall not last more than 30 days from the first date of discharge;
- iii. Underground injection discharges from any other facility or equipment from monitoring, engineering, remedial alternatives analysis, or design studies necessary to evaluate a contaminated site where the discharge shall not last more than 90 days from the first date of discharge, and

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iv. Underground injection discharges to ground water to remediate contamination caused by leaking underground storage tanks at private residences not subject to provisions of the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq.

2. Any owner or operator of a Class V underground injection well who has submitted the inventory information, as stated in (c) below, prior to May 5, 1997.]

(b) An owner or operator of any of the Class V injection wells described in (b)1 through [10] **11** below is deemed to have a permit-by-rule under this subsection if the owner or operator complies with the applicable requirements specified in this subsection.

1. - 8. (No change.)

9. Underground injection of stormwater discharges from residential areas (including residential streets, parking lots, easements, and open space), or from commercial areas other than areas of high pollutant loading as described under N.J.A.C. 7:14A-7.4(b)5ii, unless N.J.A.C. 7:14A-25.2(a) or (b) requires the operating entity to apply for a NJPDES permit for the discharge; [and]

10. Underground injection of stormwater discharges from animal feeding operations that do not require a NJPDES permit under N.J.A.C. 7:14A-2.13[.]; **and**

11. Underground injection wells used during the remediation of a contaminated site where the person conducting the remediation meets the conditions set forth at N.J.A.C. 7:14A-7.5(b).

(c)– (i) (No change.)

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N.J.A.C. 7:14A-8.10 Establishing UIC permit conditions

(a) In addition to the conditions established under N.J.A.C. 7:14A-6.3, each UIC permit is to include conditions meeting the following requirements, when applicable:

1. – 4. (No change.)

5. A permit for any Class I, II, III or V well, or any Class IV well allowed under N.J.A.C. 7:14A-8.7, shall include conditions to ensure that plugging and abandonment of the well will not allow the movement of fluids either into an underground source of drinking water or from one underground source of drinking water to another. Each applicant for a UIC permit shall submit a plan for plugging and abandonment, taking into account the requirements of N.J.A.C. 7:14A-8.17(a). The plan shall meet, at a minimum, the requirements of N.J.A.C. 7:9-9, Sealing of Abandoned Wells, where applicable. Where the plan meets the requirements of this section the Department shall incorporate the plan into the permit as a condition. Where the Department determines that the permittee's plan is inadequate, the Department shall require the applicant to revise the plan, prescribe conditions meeting the requirements of this section, or deny the application. For purposes of this section, temporary intermittent cessation of injection operations is not abandonment. Cessation of injection operations for a period of [three] **two** years or more constitutes abandonment. The improper maintenance of a well may constitute abandonment of that well in accordance with N.J.S.A. 58:4A-4.1;

6. – 8. (No change.)

SUBCHAPTER 10. GROUND WATER MONITORING REQUIREMENTS FOR HAZARDOUS WATER FACILITIES

7:14A-10.2 Applicability

(a) (No change.)

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(b) All hazardous waste facilities shall obtain a NJPDES-DGW permit to conduct ground water monitoring **and corrective action** as specified in this subchapter, **unless exempted pursuant to N.J.A.C. 7:14A-2.5(a)9 or 10.**

SUBCHAPTER 22. TREATMENT WORKS APPROVALS, SEWER BANS, SEWER BAN EXEMPTIONS

7:14A-22.4 Activities for which a treatment works approval is not required

(a) (No change.)

(b) In addition to (a) above, a treatment works approval or general industrial treatment works approval will not be required for the following facilities:

1. through 4. (No change.)

5. Building, installing, modifying or operating any system for discharges to ground water that are authorized by permit-by-rule in accordance with N.J.A.C. 7:14A-**7.5** or 8.5.

CHAPTER 26E

TECHNICAL REQUIREMENTS FOR SITE REMEDIATION

SUBCHAPTER 3. PRELIMINARY ASSESSMENT AND SITE INVESTIGATION

7:26E-3.1 Preliminary assessments

(a) - (b) (No change.)

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(c) A preliminary assessment shall be based on diligent inquiry and include an evaluation of the following:

1. Historical information concerning the site history shall be part of the preliminary assessment unless the remediation is directed at either a specific discharge event (rather than a particular area of concern) or any underground tank or underground tank system. The site history shall include an evaluation of the following to the extent available from diligent inquiry:

i. – iii. (No change.)

iv. Present and past production processes, including dates, and their respective water use [and] shall be identified and evaluated, including ultimate and potential discharge and disposal points and how and where materials are or were received onsite (for example, rail, truck);

v. - xiv. (No change.)

2. (No change.)

7:26E-3.9 Site investigation - area specific requirements

(a) The site investigation shall also satisfy the following sampling requirements for bulk storage tanks and appurtenances, including, without limitation, all in-use and out of service storage tanks with a storage capacity greater than 55 gallons, and associated piping and fill points.

1. – 2. (No change.)

3. For underground storage tanks:

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i. Underground storage tanks and distribution systems containing potential contaminants shall be evaluated to identify any past or present discharges. No sampling is required for tanks and distribution systems which have always had secondary containment and leak detection pursuant to N.J.A.C. 7:14B and no discharge history. At least four soil samples around each tank shall be collected. If tanks will be closed, refer to N.J.A.C. 7:26E-6.3(b) for requirements.

(1) – (2) (No change.)

(3) Soil samples collected for analysis shall be taken at zero to six inches below the tank bottom unless the tank is within the saturated zone (see [(a)3ii(5)] **(a)3i(5)** below);

4. (No change.)

5. For all below grade piping:

i. Below grade piping shall be evaluated to identify any past or present discharges using soil samples located zero to six inches below the piping and within two feet of piping unless the system has always had secondary containment with leak detection pursuant to N.J.A.C. 7:14B and no discharge history. Samples for volatile organic compounds shall be collected in accordance with the requirements at N.J.A.C. 7:26E-3.6(a)4. Precision tests pursuant to [N.J.A.C. 7:14B-4.3(j)] **N.J.A.C. 7:14B-6.1(a)3 and 6.6(a)2** may be used if the piping is original and there is no history of discharges or repairs.

ii. - iv. (No change.)

6. For all loading and unloading areas:

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i. (No change.)

ii. For loading or unloading points located over impervious cover, sampling shall be conducted pursuant to [N.J.A.C.] (b)1 below (Pads).

(b) The site investigation shall also satisfy the following requirements for all storage and staging areas, dumpsters and transformers, whether temporary or permanent, including exposed soil areas adjacent to above ground vessels on pads; tank loading/unloading areas on pads; dumpster staging areas; electrical transformers, heat exchanger and other outdoor equipment and drum storage pads.

1. For all pads:

i. - ii. (No change.)

iii. If a pad shows evidence of deterioration that may allow contaminant contact with the soil, or its surface has been modified (repaved), or aerial photographs or site history indicate potential for previous discharges to the soil, soil samples beneath the pad shall be collected pursuant to [N.J.A.C.](b)2ii below; and

iv. (No change.)

2. (No change.)

(c) - (f) (No change.)

SUBCHAPTER 4. REMEDIAL INVESTIGATIONS

7:26E-4.4 Remedial investigation of ground water

(a) – (g) (No change.)

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(h) The results of initial ground water analyses shall be evaluated as follows:

1. – 2. (No change.)

3. If ground water contamination above the applicable remediation standards has been confirmed, the person responsible for conducting the remediation shall perform the requirements in (h)3i through ix below. If the person responsible for conducting the remediation claims that groundwater contamination is from an offsite source, then a background ground water investigation shall be performed pursuant to [N.J.A.C. 7:26E-3.7(f)] **N.J.A.C. 7:26E-3.7(g)**.

i. - ix. (No change.)

(i) (No change.)

SUBCHAPTER 6. REMEDIAL ACTION

7:26E-6.3 Specific remedial action requirements

(a) – (b) (No change.)

(c) [Requirements for active ground water remediation (Reserved)] **For a proposed remediation that includes a discharge to ground water described by the New Jersey Pollutant Discharge Elimination System (NJPDDES) permit-by-rule at N.J.A.C. 7:14A-7.5 (b)3vii, the following requirements apply:**

1. The person seeking authorization under this permit-by-rule shall submit a remedial action workplan pursuant to N.J.A.C. 7:26E-6.2 that includes the following:

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i. A detailed description of how the discharge would comply with the Ground Water Quality Standards, N.J.A.C. 7:9-6, and the Surface Water Quality Standards, N.J.A.C. 7:9B;

ii. A detailed explanation of why the proposed ground water treatment system would be appropriate for the discharge. The explanation shall include, but not be limited to, plans for operating the proposed treatment system by a person licensed pursuant to the Licensing of Water Supply and Wastewater Treatment System Operators rules, N.J.A.C. 7:10A, where a licensed operator would be required to run the system;

iii. A detailed description of the type, location, volume and duration of the discharge that would be required for the remediation of ground water or soil, and a detailed description of the effect that the proposed discharge would have on ground water or any other receptor;

iv. A detailed description of the concentrations of all contaminants expected to be present in the discharge;

v. A detailed a description of the chemical content of all fluids and substances to be discharged and/or placed into, or onto the ground to implement remediation;

vi. A detailed monitoring plan, including but not limited to, the monitoring wells to be sampled, the frequency of sampling for wells, and if applicable, the fluid to be discharged, and a list of all the analytes to be monitored;

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vii. A detailed proposal to modify, as applicable, any existing Classification Exception Area or establish a new Classification Exception Area, as defined in the Ground Water Quality Standards, N.J.A.C. 7:9-6;

viii. A detailed schedule for the submission of reports of all discharge-related activities;

ix. If applicable, specifications for the design of an underground injection system. Such specifications shall be in accordance with New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C 7:14A-8; and

x. A draft public notice, worded exactly as the model in Appendix H, for approval prior to publication in accordance with (c)2 below.

2. The person seeking authorization under this permit-by-rule shall publish the public notice of the request for permit-by-rule authorization required by (c)1ix above in a daily or weekly newspaper of general circulation in the vicinity of the contaminated site, at least 45 days prior to the proposed startup date of the ground water discharge, that includes the following:

i. The name and location of the site;

ii. A brief description of the proposed discharge; and

iii. A public comment period of at least 30 days;

3. The person seeking authorization under this permit-by-rule shall provide a copy of the remedial action workplan, which includes the request for permit-by-rule authorization, to the mayor, clerk, and planning board for each municipality where

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the contaminated site is located, and any sewerage authority, health officer and environmental commission with jurisdiction for each area in which the contaminated site is located;

4. The person seeking authorization under this permit-by-rule shall submit to the Department proof of publication of the public notice required by (c)2 above within 15 calendar days after the notice is published;

5. The Department shall hold a public hearing if there is or may be a significant degree of public interest in favor of holding a public hearing. The Department may hold a public hearing if it determines that a hearing is likely to clarify one or more legal or factual issues regarding a request for permit-by-rule authorization and that oral testimony is essential to adequately express all issues and concerns;

i. The Department shall publish a notice of a public hearing at least 30 days prior to the hearing; and

ii. The Department shall extend the public comment period to the close of the public hearing;

6. Written comments and requests for a public hearing on the request for permit-by-rule authorization shall be submitted to the Department to the address provided in the public notice in accordance with (c)2 above

7. The Department shall consider comments received during the public comment period and respond to the comments when it issues the written decision to approve or deny the permit-by-rule authorization. The Department shall provide a copy of the decision to each commenter and to each person or entity to whom the notice was sent pursuant to (c)3 above.

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8. The person that is granted authorization under this permit-by-rule shall comply with the record-keeping requirements of the New Jersey Pollutant Discharge Elimination System (NJPDES) rules set forth at N.J.A.C. 7:14A-6.6.

SUBCHAPTER 8. ENGINEERING AND INSTITUTIONAL CONTROLS

7:26E-8.5 Monitoring, maintenance, and biennial certification - requirements for deed notices and declarations of environmental restrictions

(a) (No change.)

(b) The persons responsible for monitoring the protectiveness of a remedial action shall prepare a monitoring report that includes the following information:

1. - 5. (No change.)

6. The maintenance and evaluation log for each engineering control pursuant to [(a)6] **(a)4** above;

7. - 10. (No change.)

(c) - (d) (No change.)

APPENDIX E
Model Deed Notice

(No change.)

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DEED NOTICE

This Deed Notice is made as of the ____ day of ____, ____, by *[Insert the full legal name and address of each current property owner]* (together with his/her/its/their successors and assigns, collectively "Owner").

1. – 6B. (No change.)

7A. MONITORING AND MAINTENANCE OF DEED NOTICE, AND PROTECTIVENESS CERTIFICATION. The persons in any way responsible, pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq., for the hazardous substances that remain at the Property, the persons responsible for conducting the remediation, the Owner, and the subsequent owners, lessees, and operators, shall monitor and maintain this Deed Notice, and certify to the Department on a biennial basis that the remedial action that includes this Deed Notice remains protective of the public health and safety and of the environment. The subsequent owners, lessees and operators have this obligation only during their ownership, tenancy, or operation. The specific obligations to monitor and maintain the deed notice shall include all of the following:

i. – ii. (No change.)

iii. Certify to the Department of Environmental Protection as to the continued protectiveness of the remedial action that includes this Deed Notice, on a form provided by the Department and consistent with N.J.A.C. 7:26C-1.2 (a)1, every two years on the anniversary of the {date the Department issued the no further action letter for the first soil remedial action that included a Deed Notice} **date stamped on the deed notice that indicates when the deed notice was recorded;**

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7B. MONITORING AND MAINTENANCE OF ENGINEERING CONTROLS, AND PROTECTIVENESS CERTIFICATION. The persons in any way responsible, pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq., for the hazardous substances that remain at the Property, the person responsible for conducting the remediation, and, the Owner, and the subsequent owners, lessees, and operators, shall maintain all engineering controls at the Property and certify to the Department on a biennial basis that the remedial action of which each engineering control is a part remains protective of the public health and safety and of the environment. The subsequent owners, lessees and operators have this obligation only during their ownership, tenancy, or operation. The specific obligations to monitor and maintain the engineering controls shall include the following:

i. - ii. (No change.)

iii. Certify to the Department of Environmental Protection as to the continued protectiveness of the remedial action that includes the engineering control, on a form provided by the Department and consistent with N.J.A.C. 7:26C-1.2 (a)1, every two years on the anniversary of the {date the Department issued the no further action letter for the first soil remedial action that included a Deed Notice} **{date stamped on the deed notice that indicates when the deed notice was recorded}** .

8. -15. (No change.)

APPENDIX H

MODEL PUBLIC NOTICE

The model public notice in this appendix contains blanks and matter in brackets []. These blanks shall be replaced with the appropriate information prior to publication in

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appropriate local newspapers. As provided at N.J.A.C. 7:26E-6.3(c), the wording of this model public notice shall not be otherwise changed or modified.

This notice is being given to inform the public that as part of the remediation of [Site Name] at [street address], Block: _____ Lots: _____, in [Municipality], [_____] County, a proposal has been submitted to the New Jersey Department of Environmental Protection (Department) requesting a permit-by-rule authorization to discharge to ground water in accordance with the provisions of the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., its implementing regulations the New Jersey Pollutant Discharge Elimination system, N.J.A.C. 7:14A; the Ground Water Quality Standards, N.J.A.C. 7:9-6; and the Technical Requirements for Site Remediation, N.J.A.C. 7:26E. The NJDEP Site Remediation and Waste Management Program is overseeing the remediation under case #[_____]l.

Brief description of the proposed discharge: [Include a description of the site including the approved remedial action, type of discharge (e.g. treated ground water or in situ bioremediation), discharge unit (e.g. injection well, overland flow, lagoon, etc.) and treatment proposed and the name and description of the aquifer]. Copies of the plans, which include the proposed discharge to ground water, have been sent to the Mayor, Municipal Clerk, Planning Board, Sewerage Authority, Health Officer, and Environmental Commission of [Municipality, County].

The proposed plan to discharge to ground water is also available as part of the administrative record which is on file at the offices of the Department, Site Remediation and Waste Management Program, located at 401 East State Street, Trenton, Mercer County, New Jersey [or add alternate location]. The file may be reviewed under the New Jersey Open Public Records Act ("OPRA"), N.J.S.A 47:1A-1 et seq. Information regarding the OPRA procedures is available at <http://www.state.nj.us/dep/opra/oprainfo.html>.

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Interested persons may submit written comments regarding the discharge to ground water portion of remediation to the Department addressed to [Case Manager, NJDEP, Address] and to the owner or operator of the facility at [name and address of person/contact submitting Plan]. All comments shall be submitted within 30 calendar days of the date of this public notice. All persons who believe that any condition specific to the proposed discharge to ground water within the remedial action workplan is inappropriate, must raise all reasonably ascertainable issues and submit in writing to the Department all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period. All comments submitted by interested persons that relate to the requirements to be applied to the proposed discharge will be considered by the Department, provided that the Department receives the comments by the close of the public comment period. After the close of the public comment period, the Department will approve or modify the proposed discharge. The Department will respond to all significant and timely comments with its final decision. Each person who has submitted written comments will receive notice of the Department's final decision.

Any interested person may request in writing that the Department hold a non-adversarial public hearing on the plan to discharge to ground water. This request shall state the nature of the issues to be raised in the proposed meeting and shall be submitted within 30 calendar days of the date of this public notice to the Case Manager, at the address cited above. A public hearing will be conducted whenever the Department determines that there is a significant degree of public interest in the discharge to ground water decision. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public meeting.

Comments and written requests for a non-adversarial public hearing shall be sent to:

Site Remediation and Waste Management
NJ Department of Environmental Protection

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[Name of Case Manager]

[Address of Case manager]

ATTN: Non-adversarial public hearing request

Additional information concerning the proposal may be obtained from [Name of person/contact submitting the proposal, phone #] or the [NJDEP Case Manager, Name of Bureau phone #].